



Water Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Pacific Southwest Region
75 Hawthorne Street
San Francisco, California 94105-3901

Mail Code: WTR-7

June 2, 2005

Item No. 11
Supporting Document No. 5

Mr. John H. Robertus
Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

Dear Mr. Robertus:

This is to express our concurrence that wastewater from the Palomar Energy Project should be specifically regulated under a National Pollutant Discharge Elimination System (NPDES) permit rather than the City of Escondido's pretreatment program. The proposed NPDES permit for the City of Escondido's Industrial Brine Collection System (Tentative Order No. R9-2005-0139, NPDES No. CA0109215) reflects the correct regulatory approach under the Clean Water Act.

We have reviewed the May 27, 2005 letter from Palomar Energy to you regarding this matter and do not agree with Palomar's request to remove their effluent limits from the proposed Escondido NPDES permit.

The purpose of the pretreatment program is to regulate nondomestic discharges to municipal domestic wastewater treatment plants. This operation of the pretreatment program is described in the pretreatment program regulations at 40 CFR 403.3 in pertinent part:

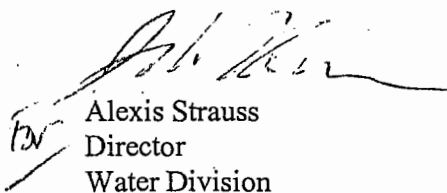
(o) The term *Publicly Owned Treatment Works* or *POTW* means a treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. (emphasis added) The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

(p) The term *POTW Treatment Plant* means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

Palomar's discharge is not conveyed to a POTW treatment plant. Instead, it is discharged to Escondido's Industrial Brine Collection System which is specifically designed to divert such nondomestic brine wastewater from the City's domestic treatment plant. Such a diversion is desirable because total dissolved solids (TDS) are usually not well treated at such plants, and to avoid negative impacts TDS may have on secondary biological treatment processes and the recycling of wastewater. Palomar's wastewater is a direct discharge that is correctly regulated with specific conditions under an NPDES permit.

If you have any questions regarding this matter, please call me at 415.972.3572. The staff person most familiar with this work is Keith Silva and he may be reached at 415.972.3509 or via e-mail at silva.keith@epa.gov.

Sincerely,



Alexis Strauss
Director
Water Division